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**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IVY COACH INC.,

*Plaintiff,*

v.

JOHN DOE CORPORATION d/b/a BEST  
COLLEGE ADMISSION CONSULTANTS  
and DOES 1-10,

*Defendants.*

Case Number:

**COMPLAINT**

**ECF Case**

**Jury Trial Demanded**

Plaintiff Ivy Coach Inc. (“Ivy Coach”), by and through its attorneys Scoolidge, Peters, Russotti & Fox LLP, files this Complaint and alleges against Defendants John Doe Corporation d/b/a Best College Admission Consultants (“Best College”) and Does 1-10 (collectively, “Defendants”) as follows:

**NATURE OF THE ACTION**

1. This is an action for civil remedies, including injunctive relief and damages, under Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)) Sections 349 and 350 of the New York General Business Law, and state law claims of trade libel/commercial disparagement and libel, arising from the publication and use in commerce of false, misleading,

disparaging, and defamatory statements by Best College regarding Ivy Coach and its college admissions consulting services.

2. Ivy Coach is a well-known and well-regarded college admissions consulting company that has assisted prospective college applicants and their families in the navigation of elite college admissions for over 30 years.

3. Ivy Coach has been featured in various news outlets, such as The New York Times, The Wall Street Journal, The Washington Post, U.S. News & World Report, NPR, Barron's, Bloomberg, and CNBC.

4. Ivy Coach's high profile in the space have made it the subject of a high volume of Internet searches on Google's search engine. Consequently, search engine optimization techniques in the space sometimes make use of Ivy Coach's name to get higher content rankings in search results.

5. In recent years, the number of high school students who work with college admissions consultants has increased. In response, the number of competitors in the college admissions consulting business has increased, and so has demand for independent, unbiased reviews of the many college admission consulting companies that are available. Because prospective college students and their families rely on these reviews in determining whether to engage the services of a college admission consulting company and which company to engage the services of, the honesty and integrity of the reviews and reviewers are essential to avoid consumer deception.

6. Best College operates a website, <https://bestcollegeadmissionconsultants.com/>, that publishes reviews of college admissions consulting companies. Best College holds itself out as an independent and unbiased reviewer of

college admissions consulting companies. In reality, Best College generates profits as an affiliate marketer—by receiving sales commissions or other fees from Ivy Coach’s competitors, whose services Best College reviews. Best College’s reviews steer its readers towards services provided by college admissions companies that provide Best College with benefits—and away from services provided by Ivy Coach—from which Best College receives nothing. Best College is part of a surreptitious economy of affiliate scam operators.

7. Consumers are entitled—and indeed, are required—to be informed about Best College’s connections to Ivy Coach’s competitors so that they may weigh the value of Best College’s endorsements. Best College’s reviews are devoid of any conspicuous disclosures notifying consumers of these practices. Best College’s website initially did not disclose any affiliate marketing relationships. After sending Best College a cease and desist letter, Best College amended certain pages in its website to include inadequate disclosures that merely state “...we may receive a commission.” Best College posts “Enroll” links throughout its website, which are actually Affiliate Links that redirect users to Ivy Coach’s competitors’ websites. Upon information and belief, Best College earns a commission whenever a user clicks on an affiliate link.

8. Moreover, after receiving Ivy Coach’s cease and desist letter, Best College tried to extort Ivy Coach to become one of its affiliate partners in exchange for providing a more positive review.

9. Ivy Coach—and the consumer—have suffered injury as a result of Best College’s undisclosed connections to Ivy Coach’s competitors. By falsely conveying that its reviews are unbiased, Best College has damaged Ivy Coach’s reputation, distorted the consumer marketplace, and deprived Ivy Coach of significant revenue due to loss of sales.

**JURISDICTION AND VENUE**

10. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338 and 2201 because this case involves an actual controversy arising under the Lanham Act, 15 U.S.C. §1051, et seq. This Court has supplemental jurisdiction over Ivy Coach's state law claims pursuant to 28 U.S.C. § 1367(a) because it is so related to Ivy Coach's Lanham Act claim that it forms part of the same case or controversy.

11. The Court has personal jurisdiction over Defendants pursuant to CPLR § 302(a)(3) because Defendants' tortious acts have caused injury to Ivy Coach within New York, and Defendants have otherwise committed acts giving rise to personal jurisdiction under CPLR § 302(a)(3)(i)-(ii).

12. Venue is proper in this District under 28 U.S.C. §1391(b) because Defendants may be found in this judicial district and/or a substantial part of the events or omissions giving rise to this action occurred in this judicial district.

**PARTIES**

13. Plaintiff Ivy Coach is a Florida corporation with a principal place of business in New York County in the City and State of New York.

14. Upon information and belief, Defendant John Doe Corporation d/b/a Best College Admission Consultants is an entity or individual carrying out the acts complained of herein.

15. Upon information and belief, Defendants Does 1-10 are entities and individuals that have acted on behalf of or in conjunction with Best College in carrying out the acts complained of herein.

## **FACTUAL BACKGROUND**

### **Ivy Coach and The College Admission Consulting Industry**

16. Ivy Coach is a college admissions consulting company that formed over 30 years ago. Its services include college admission counseling, graduate school admissions counseling, and SAT/ACT tutoring. Ivy Coach is also engaged in pro bono college admissions consulting and offers free college counseling to many of America's veterans.

17. The Ivy Coach brand and its services are well-known and well-regarded in the college admissions consulting industry. The Ivy Coach valuable brand recognition has resulted in the misappropriation of its intellectual property by third parties seeking to trade on Ivy Coach's reputation and goodwill in order to attract customers to their various business endeavors. The instant case constitutes an example of a third party using the Ivy Coach brand and intellectual property for its own commercial benefit.

18. In recent years, there has been a proliferation in the number of students who work with college admissions consulting companies and the number of college admissions consulting companies that have formed. As a result, online reviews have become an increasingly prominent part of the college admissions consulting marketplace: prospective college students and their families seek out and rely on these reviews to compare competitors and make decisions regarding which company to engage to guide them through the college admissions process.

19. The important role of reviewers—on their review websites and on social media platforms—is pervasive across many industries, including the college admissions consulting industry. As the power of reviewers to influence purchase decisions has grown, companies have partnered with reviewers to make reviewing products a profitable business itself.

20. One way that companies help reviewers monetize their reviews is through “Affiliate Marketing,” whereby a company that sells goods or services rewards the reviewer or other “Affiliate” for each purchase or website visit that the affiliate secures.

21. The use of “Affiliate Links” is a common form of affiliate marketing. The affiliate link is a unique URL leading to a company’s website that contains an identifier associated with the affiliate. When a customer arrives at the company’s website by clicking on this URL link, any resulting purchases are tracked and the affiliate receives a commission on each purchase.

22. Affiliate Marketing and related practices create relationships between reviewers and companies that consumers would not reasonably expect. As a result, regulators of commerce, most notably the Federal Trade Commission (“FTC”), have made clear that these practices are unfair and deceptive and amount to false advertising if they are not effectively and conspicuously disclosed.

23. In its “Guides Concerning Use of Endorsements and Testimonials in Advertising” (hereinafter “Endorsement Guides”), the FTC states that “[w]hen there exists a connection between the endorser and the seller of the advertised product that might materially affect the weight or credibility of the endorsement and that connection is not reasonably expected by the audience, such connection must be disclosed clearly and conspicuously.” 16 C.F.R. § 255.5. “‘Clear and conspicuous’ means that a disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers.” 16 C.F.R. § 255.0. Moreover, the large majority of college admission consulting advertising is directed at teens and the FTC has made clear that “advertisers and endorsers should be particularly careful in their use of endorsements directed to this audience.” See <https://www.ftc.gov/business->

[guidance/resources/ftcs-endorsement-guides-what-people-are-asking](#) (“FTC’s Endorsement Guides Resources”).

24. The FTC’s Endorsement Guides and related resources reflects the fundamental legal principle that commercial speech must be true and non-misleading. As applied to business relationships, this means that websites of affiliate marketers, like Best College, must clearly and conspicuously disclose any material connections to the partners they have. Best College has failed to do so.

**Best College is a Commercial Enterprise That Earns Profits By Peddling The Services For Which It Receives Commissions and Financial Gain**

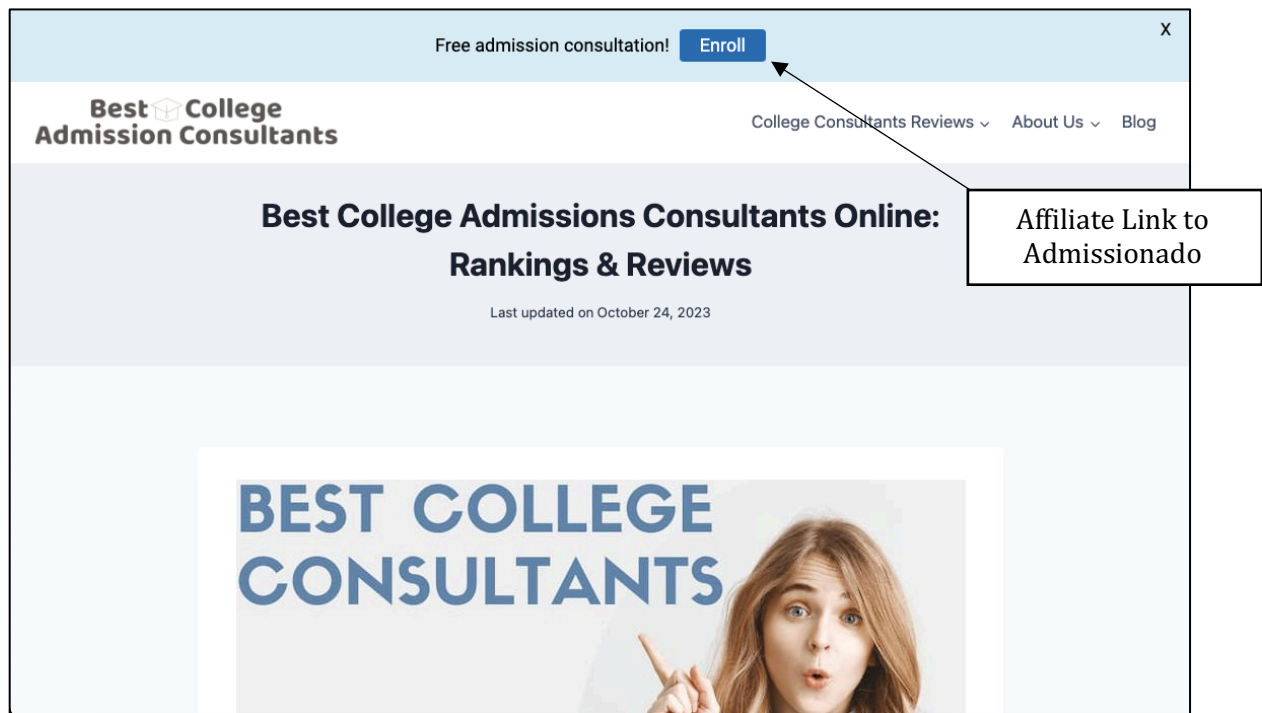
25. Defendant Best College and its contributors hold themselves out as experts in college admissions that prospective college students and their families can rely on and trust to provide correct, unbiased, and truthful reviews and advice.

26. Upon information and belief, Best College owns, operates, and controls the website <https://bestcollegeadmissionconsultants.com/>, where Best College and its contributors provide reviews of college admissions consulting companies and advice regarding college admissions to prospective college students and their families.

27. Upon information and belief, Best College and its contributors do not provide such unbiased reviews and advice, but rather, under the guise of providing “reviews,” seek to influence users to purchase college admissions consulting services from companies for which Best College receives commissions and from which it builds its revenues.

28. Upon information and belief, Best College generates profits through, among other things, the substance of its reviews and the placement of “Affiliate Links” on its website.

29. Upon information and belief, Best College earns a commission if a consumer simply clicks on one of the several Affiliate Links on its website found at the “Enroll” buttons, which directs a consumer to the website of one of Ivy Coach’s competitors, BeMo Admissions Consulting, Inc. (hereinafter “BeMo”), Precision Essay, LLC d/b/a Admissionado (hereinafter “Admissionado”), and Admit Advantage, Inc. (hereinafter “Admit Advantage”), for which Best College is an Affiliate. The image below shows the placement of an Affiliate Link to Admissionado on Best College’s homepage. This link appears at the header of every page on Best College’s website.



30. Additionally, the chart below, with Affiliate Links to Admissionado, BeMo, and Admit Advantage, appears on Best College’s homepages as well as in its “reviews” of each of the eighteen college admission consulting companies it reviews, including its Ivy Coach “review”:



Free admission consultation! [Enroll](#)

Boost the likelihood of your getting into the school of your dreams.

### College Consulting Firms: Comparison

Here is a short comparison of 3 popular college admissions consulting firms:

Best College Admission Consulting Firms	ADMISSIONADO	BeMo	ADMIT ADVANTAGE
Consultant	Admissionado	BeMo Consulting	Admit Advantage
Price Range	\$1,650-\$9,880	\$1,337-\$10,697	\$5,999-\$14,999
Admissions Feature	College	Med school	Law school
Rating	4.8	4.5	4.2
Learn more	<a href="#">Enroll</a>	<a href="#">Enroll</a>	<a href="#">Enroll</a>

### Admission Options to Consider

There is a wide variety of choice when it comes to applying to colleges, and the path that is

↑

Affiliate Link to Admissionado

Affiliate Link to BeMo

Affiliate Link to Admit Advantage

31. As discussed in more detail below, Best College’s Affiliate Links and biased reviews are devoid of any conspicuous disclosures notifying consumers of these practices and its Affiliate Marketing relationships.

**Best College Makes False, Misleading, and Defamatory Statements Both Directly And Indirectly About Ivy Coach and Its Services**

32. In the Ivy Coach review on Best College’s website, Best College purports to convey factual information about Ivy Coach and its services, but instead posted inaccurate information, outright falsehoods and misleading statements that are damaging both Ivy Coach and consumers.

33. In its initial review of Ivy Coach (found at <https://bestcollegeadmissionconsultants.com/ivy-coach-review/>), Best College made the following false and/or misleading statements:

- “However, the effectiveness of their coaching has been called into question by some clients. One client reported that Ivy Coach essentially wrote their entire application for them, which ultimately did not lead to successful admissions to top-tier schools.”
- “IvyCoach.com begins with a one-hour evaluation for middle school students and students currently in ninth, tenth, or eleventh grade.”
- “Ivy Coach offers pro bono college admissions consulting to veterans and current members of all five United States Armed Forces branches. They also provide pro-bono services annually to low-income, need-based students.”
- “Ivy Coach works with students within the U.S. and abroad, offering full flexibility for remote counseling via FaceTime, Phone, or Zoom.”
- “However, prospective clients should carefully consider the cost and effectiveness of these services based on the mixed reviews Ivy Coach has received. For example, one client felt that a high-ranking member of Ivy Coach showed no interest in them as a client during a free introduction meeting and gave dismissive responses to their questions.”
- “Communication with Ivy Coach seems to be a point of contention. While they offer remote counseling via Skype, FaceTime, or phone, some clients have reported feeling dismissed or unimportant during their interactions. This could be an area for improvement for Ivy Coach.”
- “Some clients have reported unsuccessful admissions outcomes despite using IvyCoach.com services.”
- “In addition to their ‘Unlimited Package’, Ivy Coach offers a-la-carte pricing, allowing clients to choose specific services they need.”
- “While Ivy Coach does offer pro bono college admissions consulting to veterans and current members of all five branches of the United States Armed Forces, as well as to low-income, need-based students, these services are limited and may not be accessible to all who need them.”
- “Some clients have questioned the value for money of Ivy Coach’s services. For instance, one client who paid for the “Unlimited Package” reported being rejected from all the top-tier schools they applied to, leading them to feel that the service was not worth the cost.”
- “The overall experience with Ivy Coach seems to vary greatly among clients.”

- “Additionally, some clients have reported negative experiences with their counselors and felt that their coaching was not effective.”
- “While Ivy Coach presents a comprehensive suite of services and boasts some success stories, their offerings’ high cost and mixed client reviews raise significant concerns. Some clients have questioned the effectiveness of their coaching, and the value for money, given the substantial investment required, is not consistently evident.”
- “Ivy Coach claims that 100% of their students who have completed applications with them earned admission to their first college choice.”
- “They also offer a-la-carte pricing, allowing clients to choose specific services they need, but the cost of these individual services is not publicly available, adding to the lack of transparency.”
- “While Ivy Coach has been in the college admissions consulting business since 1992 and has a presence in the industry, the reputation of the company is questionable due to mixed client reviews. Some clients have reported negative experiences, including feeling dismissed or unimportant, and unsuccessful admissions outcomes despite using Ivy Coach’s services. Therefore, while Ivy Coach is a known entity in the field, the mixed reviews raise concerns about their reputation.”
- “Therefore, while Ivy Coach can provide guidance and assistance throughout the application process, no consulting service, including Ivy Coach, can guarantee acceptance to any college or university. This claim can be misleading for prospective clients.”
- “The value of Ivy Coach’s college admission services is highly debatable. Given the high cost of their services and the mixed reviews from clients, many clients have questioned their value for money. Some clients who paid for the “Unlimited Package” felt that it was a waste of money after being rejected from all the top-tier schools they applied to. Therefore, prospective clients should carefully consider these factors and perhaps look for more reviews or contact Ivy Coach directly for more information before deciding if their services are worth the investment.”

34. In the current version of its review, Best College makes the following false and/or misleading statements:

- “However, a word of caution, I will also be shedding light on some less-than-stellar aspects of IvyCoach.com based on various client experiences later in this article.”

- “We’ve been forced to remove all parts of the text indicating what people might have experienced working with them, so we can only share this review on Reddit, which will spread some light on their quality.”
- “Being rejected from all the top-tier schools you apply to might lead to feeling that the service was not worth the cost.”
- “Prospective clients have the possibility to explore other options, seek out various reviews that are still not taken down by lawyers, and make their own decisions based on their specific needs, expectations, and budget. But why do that when you can work with this company?” (“other options” hyperlinking to an Admissionado review)

35. In the current version of its review, Best College also reposts an alleged review of Ivy Coach’s services found on Reddit, without any reasonable basis to believe that the statements are true or that the alleged reviewer was an actual Ivy Coach client.

36. Each of those statements, which goes directly to the nature, characteristics, and qualities of Ivy Coach’s business and services, is false and misleading when made, either directly on their face or as innuendo, indirect intimation, and ambiguous suggestion that results in a sophisticated deception of the consumer.

37. Moreover, Best College has no reasonable basis to believe that any of the “statements” from anonymous alleged former clients that they found on the internet and republish are true.

38. Best College knew, recklessly disregarded, or should have known that its statements about Ivy Coach were false and misleading when made.

39. Throughout its website and in its reviews of other college admissions consulting companies, including the Ivy Coach review, Best College promotes BeMo, Admissionado, and Admit Advantage, companies for which Best College receives commission revenues and/or fees.

40. By disparaging Ivy Coach’s services and simultaneously promoting the services of the companies for which Best College receives commission revenues and/or fees, Best College is acting in pursuit of its economic interests.

41. As such, Best College’s reviews of college admissions consulting companies constitute commercial speech made for the purpose of influencing prospective college applicants and their families to buy services for which Best College has a financial stake.

**Best College Makes Inadequate Disclosures About Its Affiliate Partners**

42. On several pages of its website and on its reviews of admissions consulting companies, Best College misleadingly implies that the statements are completely independent, unbiased, and informed by personal experience, reinforcing its statements of independence elsewhere on the website. For example, Best College states:

- “Our recommendations are handpicked.” [Throughout the Best College website. *See, e.g.*, <https://bestcollegeadmissionconsultants.com/> (last visited Oct. 30, 2023)]
- “All opinions expressed by contributors are solely their own.” [Throughout the Best College website. *See, e.g.*, <https://bestcollegeadmissionconsultants.com/> (last visited Oct. 30, 2023).]
- “Welcome to BestCollegeAdmissionConsultants.com, where we provide honest and unbiased reviews of online test prep and college admission consulting services to help students make informed decisions.” [Contact webpage, found at <https://bestcollegeadmissionconsultants.com/contact/> (last visited Oct. 30, 2023).]
- “We apologize for any inconvenience this may cause and understand the importance of unbiased reviews to our readership.” [Ivy Coach Review webpage, found at <https://bestcollegeadmissionconsultants.com/ivy-coach-review/> (last visited Oct. 30, 2023).]
- “Determined to help other students avoid similar experiences, my friends and I launched a project reviewing and comparing different online services in the educational field. We called it the Best College Admission Consultants, and our goal was to provide honest and unbiased reviews to help students make informed decisions about which services to use.” [About Us webpage, found at

<https://bestcollegeadmissionconsultants.com/about-us/> (last visited Oct. 30, 2023).]

- “Through our hard work and dedication, we were able to create a comprehensive and reliable resource for students seeking test prep and college admission assistance.” [About Us webpage, found at <https://bestcollegeadmissionconsultants.com/about-us/> (last visited Oct. 30, 2023).]
- “Our small team is here to help to avoid firms that will not fulfill your needs and we’re happy to answer any questions you might have about tutoring, test prep, or college admissions provided by legit and scammy websites out there.” [About Us webpage, found at <https://bestcollegeadmissionconsultants.com/about-us/> (last visited Oct. 30, 2023).]
- “Please, also note that we do not provide the services or goods of any kind, we are just trying to create a platform for others to share their opinion on brands that fail or succeed to help others with their learning.” [About Us webpage, found at <https://bestcollegeadmissionconsultants.com/about-us/> (last visited Oct. 30, 2023).]
- “To review college consultants and test prep services, we first gather as much information as we can about the company, its services, material, and prices. This included reading through their website, looking at customer reviews and ratings, and speaking with former clients mostly.” [How Best College Admission Consultants Work webpage, found at <https://bestcollegeadmissionconsultants.com/our-review-process/> (last visited Oct. 30, 2023).]
- “We hope that our thorough and unbiased reviews will help YOU, our readers make an informed decision about whether a particular college admissions consultant is the right fit.” [How Best College Admission Consultants Work webpage, found at <https://bestcollegeadmissionconsultants.com/our-review-process/> (last visited Oct. 30, 2023).]
- “But our team at the Best College Admission Consultants recommends only trustful and legit firms.” [Homepage, found at <https://bestcollegeadmissionconsultants.com/> (last visited Oct. 30, 2023).]

41. Best College’s website initially did not disclose any affiliate marketing relationships. After sending Best College a cease and desist letter, Best College amended its “Best College Admission Consultants Review Process” page on its website to state, “If we find

that users online and our small team have a similar positive opinion on the firm, we might partner with this company in the future to help more people online avoid poor choices. As of now, we are only partnered with BeMo and Admissionado as they are the only two companies that behave adequately with their clients [at least with those that we had experience talking to online. that might change in the future and so will our opinion and rating.]”

42. On or around October 24, 2023, Best College further amended its “Best College Admission Consultants Review Process” page on its website to remove the names of the companies with which it has an affiliate marketing relationship and replaced it with vague language to state, “If we find that users online and our small team have a similar positive opinion on the firm, we might partner with this company in the future to help more people online avoid poor choices. As of now, we are only partnered and affiliated with a couple of college consultants that behave adequately with their clients [at least with former clients we had experience chatting with online; note that might change in the future and so will our opinion and rating] and with us when we contacted them.”

43. Additionally, on or around October 24, 2023, Best College further modified its “Best College Admission Consultants Review Process” page on its website to state, *“Our recommendations are handpicked. Should you buy using our links, we might receive a commission. Learn more [here](#). All opinions expressed by contributors are solely their own.”* These disclosures are in small, thin font and do not appear anywhere near the Affiliate Links.

44. Additionally, on or around October 24, 2023, Best College also added the same vague disclosure to each of its review pages. The foregoing changes indicate that Best College is aware of the tortious nature of its content.

45. Even Best College's Facebook page (found at <https://www.facebook.com/bestcollegeadmissionconsultants>, last visited Oct. 25, 2023) and YouTube channel, (found at <https://www.youtube.com/@BestCollegeAdmissionConsultant/about>, last visited Oct. 25, 2023) both state, "[o]ur company specializes in providing reliable, comprehensive reviews and ratings of college admission consultants nationwide and globally" do not disclose its role as an affiliate marketer.

46. Upon information and belief, Best College has an affiliate marketing relationship with BeMo Academic Consulting Inc., a Canadian corporation with a registered office address of 4711 Yonge Street, 10<sup>th</sup> Floor, Toronto, ON M2N 6K8 Canada.

47. Upon information and belief, Best College collects commission and/or fees from BeMo for providing BeMo with more favorable reviews from Best College and inserting links to BeMo's website throughout Best College's website, including as an "Enroll" button in a chart of the top three recommended college admissions consulting firms that appears on every page of Best College's website.

48. Upon information and belief, Best College has an affiliate marketing relationship with Precision Essay LLC d/b/a Admissionado, a Delaware limited liability company with a principal address of 121 N. Croft Ave, 110, Los Angeles, CA 90048 and a business address of 324 Beverly Dr., Suite 306 Beverly Hills, CA 90212.

49. Upon information and belief, Best College collects commission and/or fees from Admissionado for providing Admissionado with more favorable reviews from Best College and inserting links to Admissionado's website throughout Best College's website, including as an "Enroll" button in a chart of the top three recommended college admissions



consulting firms that appears on every page of Best College’s website and an “Enroll” button at the header of each page of Best College’s website.

50. In addition, on its free consultation form for prospective clients to sign up to learn about its services (found at <https://admissionado.com/free-consultation/college-consultation/>), Admissionado explicitly lists Best College on its form under the prompt “We’re just curious...how did you find us?”:

ADMISSIONADO MBA | MASTERS COLLEGE OUR SERVICES ESSAY ANALYSIS FREE CONSULTATION

We're just curious... how did you find us? \*

✓ Please Select an Option

- AIS-CPA
- Alma Mater Podcast
- BestCollegeAdmissionConsultants.com**
- Blog Search
- College Confidential
- College Consensus
- Consortium
- Crush the GRE
- Crush the LSAT
- Edu Reviewer
- Exam Strategist
- Facebook
- Friend Referral
- Google Ad
- Google Search
- Huffington Post
- InternationalStudent.com
- LinkedIn

51. Upon information and belief, Admissionado lists Best College on the aforementioned free consultation form because Best College is a known source of traffic to Admissionado’s website.

52. While Best College and Ivy Coach have no affiliate relationship, after receiving Ivy Coach’s cease and desist letter, Best College tried to extort Ivy Coach in exchange for providing a more positive review. Specifically, in response to a letter from Ivy Coach’s counsel following up on its initial cease and desist letter, Best College stated, “Actually, if your

client is interested in partnering with us instead of trying to threaten us, let us know, we believe that we will have more positive effect and save all of us our resources.”

53. Because Best College fails to sufficiently disclose its material connections to these admission consulting companies, readers of Best College’s website are unable to consider those connections in weighing the value of Best College’s endorsements.

54. By the same token, readers of Best College’s website are unable to weigh the value of Best College’s negative statements regarding Ivy Coach, with whom it has no affiliate relationship.

55. Through its explicit and implicit representations, Best College misleads consumers to believe that Best College’s reviews are independent and unbiased when, in fact, they are intended to direct consumers to purchase the services of Best College’s affiliates.

56. Even these recent attempts at fixing its woefully inadequate disclosures continue to deceive and mislead Best College readers.

57. Moreover, the disclosures that have recently appeared are so general as to be uninformative or even misleading in their own right. The disclosures fail to identify any specific affiliate relationships. Not only do these “disclosures” leave readers without any knowledge of the actual links and services to which this disclosure applies, but they also falsely imply that because their “recommendations are handpicked,” and they “might receive a commission,” therefore their reviews remain unbiased despite these connections.

58. As such, the limited disclosures on the Best College website fail to inform consumers of Best College’s material connections to Ivy Coach’s competitors BeMo and Admissionado.

59. Even if the substance of the disclosures were sufficient (they are not), the placement of the disclosures is far from clear and conspicuous. The disclosures appear on the “Best College Admission Consultants Review Process” page on its website in small, thin font and nowhere near the Affiliate Links.

60. In sum, the effect of Best College’s false, misleading, and defamatory statements about Ivy Coach and Best College’s inadequate disclosures is that Best College steers prospective clients toward admissions consulting companies with which it has an affiliate marketing relationship, such as BeMo and Admissionado, and away from admissions consulting companies that it does not have an affiliate marketing relationship with, such as Ivy Coach.

**Ivy Coach’s Damages**

61. Best College’s deceptive and misleading reviews have caused Ivy Coach significant lost sales and reputational damages. The reviews have also, upon information and belief, resulted in sizable financial gains for Best College.

62. As discussed, Ivy Coach’s has been extremely successful and has acquired strong brand recognition in the college admissions consulting business. Best College is exploiting the goodwill and acclaim of the Ivy Coach brand to increase traffic to its website and promote Ivy Coach’s competitors, thereby increasing its commissions.

63. Best College’s reviews feature prominently in Google search results for Ivy Coach. A Google search for “Ivy Coach” yields Best College’s website and statement on the first page of Google search results: “After being contacted by their lawyers, we really wanted to say that it is a great company, one of the best in the industry” in the first answer to “People also ask: Is Ivy Coach legit?” Best College thereby directly interferes with potential Ivy Coach sales, interposing its own false statements and misleading reviews.

64. Upon information and belief, potential Ivy Coach customers, over 80% of whom initially come to Ivy Coach through Google organic search or direct search of the term "Ivy Coach," including potential customers located in New York, have been diverted to Best College's false and misleading reviews through Ivy Coach-related internet searches. As a result of being deceived into believing in Best College's independence and non-bias, these consumers, who would otherwise add to the over 550,000 unique visitors who have come to Ivy Coach's website so far this year (January 1 - October 31, 2023), have purchased services from Ivy Coach's competitors rather than Ivy Coach.

65. Ivy Coach estimates that Best College's conduct has caused it over a million dollars in lost sales to date, in addition to significant reputational harm. Additionally, upon information and belief, Best College has received significant income from commissions on these misdirected sales.

66. The harm to Ivy Coach's business and reputation caused by Best College's conduct is ongoing and continues to this day.

**FIRST CAUSE OF ACTION**  
**(Violation of Section 43(a) of the Lanham Act – 15 U.S.C. § 1125(a))**

67. Ivy Coach repeats and re-alleges all paragraphs above as though fully set forth herein.

68. As set forth above, Best College has made false and/or misleading statements on its website, on YouTube, and in other social media, expressly and implicitly conveying that Best College's reviews are independent and unbiased.

69. Best College's false and/or misleading statements have the capacity to deceive a substantial portion of Ivy Coach's intended audience of potential college admission

consulting customers, and upon information and belief, these statements have actually deceived potential college admission consulting customers.

70. Best College's conduct was willful.

71. Best College's false and/or misleading statements are material, in that they are likely to influence customers' college admission consulting purchasing decisions.

72. By publishing the false and misleading statements on its website, on YouTube, and elsewhere on the Internet, Best College has placed the statements in interstate commerce.

73. Ivy Coach has suffered injury as a result of Best College's false and misleading statements, both by direct diversion of potential customers and by a lessening of goodwill associated with Ivy Coach's services.

74. Additionally, Best College has received revenue in the form of commissions from affiliate sales caused by its false and misleading statements, in an amount to be determined at trial.

75. Ivy Coach continues to be damaged by Best College's activities and conduct. Unless Best College's conduct is enjoined, Ivy Coach and its goodwill and reputation will suffer irreparable injury that cannot be adequately calculated or compensated solely by monetary damages and for which there is no adequate remedy at law.

**SECOND CAUSE OF ACTION**  
**(Violation of Section 349 of the New York General Business Law)**

76. Ivy Coach repeats and re-alleges all paragraphs above as though fully set forth herein.

77. As set forth above, Best College made false and/or misleading statements on its consumer-oriented website, expressly and implicitly conveying that Best College's reviews are independent and unbiased.

78. Best College has failed to sufficiently disclose its affiliate relationships with other college admissions consulting companies it reviews, information that Best College possesses but fails to conspicuously provide.

79. Best College's deceptive acts are directed at consumers because Best College incorporates them into its webpage, which features consumer-oriented reviews of college admissions consulting companies.

80. Best College's deceptive acts are likely to mislead a reasonable consumer acting reasonably under the circumstances.

81. Best College's acts affect the public interest in New York because, upon information and belief, consumers in New York choose their college admission consulting companies from Ivy Coach's competitors based on Best College's false and/or misleading statements and omissions.

82. Ivy Coach has suffered injury as a result of Best College's false and misleading statements and omissions, both by direct diversion of potential Ivy Coach contracts and by a lessening of goodwill associated with Ivy Coach's services, in an amount to be determined at trial.

83. Additionally, Best College has received revenue in the form of commissions from affiliate sales caused by its false and misleading statements, in an amount to be determined at trial.

84. Ivy Coach continues to be damaged by Best College's activities and conduct. Unless Best College is enjoined, Ivy Coach and its goodwill and reputation will suffer irreparable injury that cannot be adequately calculated or compensated solely by monetary damages and for which there is no adequate remedy at law.

**THIRD CAUSE OF ACTION**  
**(Violation of Section 349 of the New York General Business Law)**

85. Ivy Coach repeats and re-alleges all paragraphs above as though fully set forth herein.

86. Best College has engaged in a consumer-oriented pattern and practice of making false statements about Ivy Coach.

87. Best College's false statements about Ivy Coach were placed on consumer-focused websites.

88. Those statements were materially misleading with respect to the quality and characteristics of Ivy Coach's services.

89. Specifically, Best College made material misstatements about Ivy Coach's quality of services, all of which are attributes customers rely on when selecting college admission counseling.

90. Best College further published fake consumer reviews making negative statements about Ivy Coach's services.

91. Best College's actions have caused customers to divert their business away from Ivy Coach's services and towards its competitors.

92. Best College's conduct was willful because it knew the false and misleading representations about Ivy Coach were materially false.

93. Ivy Coach has been damaged at an amount to be determined at trial that is no less than one million dollars.

**FOURTH CAUSE OF ACTION  
(Trade Libel/Commercial Disparagement)**

94. Ivy Coach repeats and re-alleges all paragraphs above as though fully set forth herein.

95. Best College has maliciously published and disseminated false statements that disparage Ivy Coach's services.

96. These statements constitute injurious falsehoods and trade libel, which, inter alia, impugn the integrity of Ivy Coach and the quality of its services.

97. The statements were expressly directed at Ivy Coach.

98. Best College has published and disseminated its false statements to the public by means of the Internet and specifically its website.

99. There can be no question that the readers of Best College's statements understand Best College's defamatory meaning and understand that Best College's statements are directed at Ivy Coach's services.

100. Ivy Coach has been specifically harmed by Best College's defamatory statements.

101. Best College has no privilege or authorization to make its false and harmful statements.

102. As a direct and proximate result of Best College's unlawful acts, Ivy Coach has suffered and will continue to suffer significant monetary and reputational injury in



amounts that will be proven at trial and are believed to exceed one million dollars, exclusive of interest and costs.

**FIFTH CAUSE OF ACTION  
(Libel)**

103. Ivy Coach repeats and re-alleges all paragraphs above as though fully set forth herein.

104. Best College published and disseminated false statements concerning Ivy Coach and those statements impeach Ivy Coach's integrity and reputation. Specifically, Best College asserts, directly or by implication, inter alia, that Ivy Coach writes applications for clients, shows no interest in clients, has ineffective coaching, and that its services are a waste of money.

105. Best College has published and disseminated its false statements to the public by means of the Internet and specifically, at least on its website.

106. Best College is at fault because it intentionally, recklessly, or negligently made such statements.

107. Best College has no privilege or authorization to make such statements.

108. Ivy Coach has been and continues to be damaged by these statements. Ivy Coach is a for-profit corporation, and Best College's statements prejudice Ivy Coach in the conduct of its business and/or deter others from dealing with it by discouraging potential customers from acquiring Ivy Coach's services and encouraging them to acquire a competitor's service instead.

109. As a direct and proximate result of Best College's unlawful acts, Ivy Coach has suffered and will continue to suffer significant monetary and reputational injury,

including lost sales, in amounts that will be proven at trial but that are believed to exceed one million dollars exclusive of interest and costs.

### **PRAYER FOR RELIEF**

WHEREFORE, Ivy Coach respectfully requests that this Court enter a judgment:

- a) Finding Defendants have violated Section 43(a) of the Lanham Act (15 U.S.C. § 1125 (a)), Sections 349 and 350 of the New York General Business Law, and state law claims of trade libel/commercial disparagement and libel;
- b) Awarding damages in an amount to be determined at trial; and that those damages be trebled pursuant to 15 U.S.C. §1117 in view of the willfulness of Defendants actions;
- c) For temporary, preliminary and permanent injunctions, restraining and enjoining Defendants, and its respective and common agents, employees, representatives, servants, successors, assigns, affiliates, and all those acting under its control or the control of any of the foregoing persons and/or on their behalf and/or in concert with them, Internet Service Providers and domain name registrars, precluding them from making future false or misleading claims about Ivy Coach;
- d) For temporary, preliminary and permanent injunctions, restraining and enjoining Defendants, and its respective and common agents, employees, representatives, servants, successors, assigns, affiliates, and all those acting under its control or the control of any of the foregoing persons and/or on their behalf and/or in concert with them, Internet Service Providers and domain name registrars, requiring them:

- a. to remove any and all references on the Internet to Ivy Coach by Best College in any and all material published, exhibited, or otherwise used publicly, including without limitation on (i) <https://bestcollegeadmissionconsultants.com/> and/or any other website owned or controlled by Best College; (ii) social media accounts owned or controlled by Best College, including without limitation YouTube and Facebook accounts; and/or (iii) any other advertising, promotion, or publicity owned or controlled by Best College appearing in any medium;
- b. to comply with all applicable laws, rules, regulations, and Federal Trade Commission (“FTC”) guidance concerning any material published, exhibited, or otherwise used publicly by Defendants and
- c. to disclose clearly and conspicuously any material connections between any admissions consulting company and Best College in any and all material published, exhibited, or otherwise used publicly, including without limitation on (i) <https://bestcollegeadmissionconsultants.com/> and/or any other website owned or controlled by Best College; (ii) social media accounts owned or controlled by Best College, including without limitation YouTube and Facebook accounts; and/or (iii) any other advertising, promotion, or publicity owned or controlled by Best College appearing in any medium;
- e) Awarding pre-judgment and post-judgment interest, to the fullest extent allowable at law or in equity, on all damages;

- f) That Ivy Coach be awarded all of Ivy Coach's costs in this action, including Ivy Coach's reasonable attorneys' fees and expenses;
- g) That Ivy Coach be awarded such other and further relief as may be deemed just and proper by this Court.

### **JURY TRIAL DEMAND**

Plaintiff hereby demands a jury trial on all issues that may be tried to a jury.

Date: November 3, 2023

Respectfully submitted,

/s/ Margaret Schoolidge

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Peter Schoolidge (PS7107)

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